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ABSTRACT

This report discusses the outcomes of a study that investigated the incidence and impact of serious student misconduct on schools, whether students with disabilities are being disciplined differently from those without disabilities, and the role that the Individuals with Disabilities Education Act 1997 (IDEA) plays in schools' ability to properly discipline students with disabilities. The study conducted a survey of 272 public middle and high schools and visited schools in Louisiana, New York, and Wisconsin. Results of the study indicate about 81 percent of the schools reported one or more incidents of serious misconduct in school year 1999-2000. About 7 of every 10 incidents were acts of violent behaviors, generally student fistfights. Principals reported an average of 10 incidents among regular education students and 4 incidents among students in special education in the school year. The study found that students in special education who are involved in serious misconduct are being disciplined in generally a similar manner to regular education students. Finally, IDEA plays a limited role in affecting schools' ability to properly discipline students, according to school principals. Principals generally rated their schools' special education discipline policies as having a positive or neutral effect on school safety. (CR)

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United States General Accounting Office

GAO

Report to the Committees on Appropriations, U.S. Senate and House of Representatives

January 2001

# STUDENT DISCIPLINE

# Individuals With Disabilities Education Act

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**Abbreviations**

| | |
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| EHA | Education for All Handicapped Children Act |
| IDEA | Individuals With Disabilities Education Act |
| IEP | individualized education program |

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**United States General Accounting Office**
**Washington, D.C. 20548**

January 25, 2001

The Honorable Ted Stevens
Chairman
The Honorable Robert C. Byrd
Ranking Minority Member
Committee on Appropriations
United States Senate

The Honorable C.W. Bill Young
Chairman
The Honorable David R. Obey
Ranking Minority Member
Committee on Appropriations
House of Representatives

Maintaining discipline and safety in America's public schools is a key concern of school officials, parents, and policymakers nationwide. The public expects schools to operate in an orderly environment free from violence. Standards for discipline and safety in schools are set primarily by local school districts. In recent years, however, federal law has required states and local districts to implement certain discipline-related policies in schools—for example, through provisions of the Gun Free Schools Act[1] and the Individuals With Disabilities Education Act (IDEA).[2] IDEA requires that eligible children with disabilities have available to them a free, appropriate public education that provides for special education and related services to address their educational needs in the least restrictive

[1]20 U.S.C. 8921.

[2]20 U.S.C. 1400.

environment.[3] The act also requires schools to follow certain procedures when they make a change in a student's educational placement because of his or her behavior.

Moreover, the act prescribes a set of procedures to ensure that children with disabilities who engage in misconduct are not unfairly deprived of educational services. While federal law and regulations require all schools to provide procedural protections to students with disabilities, states and school districts have the option to provide them with additional protections. Almost 6 million youths aged 3 through 21 (more than 1 of every 8 of the 46.6 million public school students) were classified as having physical, learning, or emotional disabilities that qualified them to receive educational services under IDEA in school year 1997-98, according to the most recent data. In fiscal year 2000 the federal government provided $6 billion to states and local governments to help provide those services.

When the Department of Education issued proposed regulations implementing the IDEA amendments of 1997,[4] some school administrators and teachers raised concerns about their ability to preserve school safety and order and at the same time educate children with disabilities. Specifically, several provisions of IDEA and portions of the proposed regulations (such as the "stay-put" provision and the cumulative 10-school-day limit on suspensions) were perceived as limiting the authority of school personnel to remove students with disabilities from school for disciplinary infractions. Moreover, at that time, anecdotal evidence suggested that even after engaging in serious misconduct, students with disabilities continued to receive educational services in schools because of the protections afforded by IDEA. In contrast, nondisabled students involved in similar infractions were suspended or expelled without services. This led to the perception of a double standard for student discipline and gave rise to

[3]The term "free, appropriate public education" means special education and related services that are provided at public expense, under public supervision and direction, and without charge; meet the standards of the state educational agency; include an appropriate preschool, elementary, or secondary school education in the state involved; and are provided in conformity with an individualized education program (IEP). 20 U.S.C. 1401(8). "Special education" means specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability, including instruction conducted in the classroom, in the home, in institutions, and in other settings. 20 U.S.C. 1401(25). "Related services" means transportation and any developmental, corrective, and other supportive services required to assist a child with a disability in benefiting from special education. 20 U.S.C. 1401(22).

[4]62 Fed. Reg. 55,026 (1997).

concerns about the fairness of school discipline policies for students with disabilities. As a result, the Congress directed[5] us to conduct a study to determine how the IDEA amendments of 1997 affect the ability of schools to maintain a safe environment conducive to learning. We could not undertake this study until Education issued final regulations to guide implementation of IDEA's 1997 amendments, which took place in March 1999.[6] Following discussions with your staffs, we agreed to study the issues after the final regulations had been in place for at least a significant portion of a school year and answer the following questions:

- What are the incidence and impact of serious student misconduct (drugs; weapons; assault; rape; sexual assault; and robbery) on schools, and is the impact primarily attributable to the serious misconduct of students with disabilities or of regular education students?
- Are students with disabilities who engage in serious misconduct being disciplined differently from those without disabilities and, if so, how?
- What is the role that IDEA plays in schools' ability to properly discipline students with disabilities who engage in serious misconduct?

Although the IDEA amendments of 1997 required that Education collect limited data on certain disciplinary actions for special education students, at the time we did our work this effort had not progressed sufficiently to provide us with any usable data. Because of this limitation, we surveyed a nationally representative sample of about 465 public middle and high school principals about discipline of special education as well as regular education students. We did not survey elementary schools because data from Department of Education and Department of Justice reports showed that elementary schools were much less likely than either middle or high schools to experience or report any type of serious misconduct. All data from our survey are self-reported, and we did not independently verify their accuracy. We had a response rate of 60 percent for our survey. This response rate is too low to permit us to produce estimates that are nationally representative. Nevertheless, the size and geographic location of the 272 responding schools were generally similar to the schools in our sample, and we believe the survey data provide information not available from any other source about IDEA's impact on school discipline. We also conducted site visits and interviews with principals in Louisiana, New York,

[5]H.R. Conf. Rep. No. 105-825, at 1313 (1998).

[6]64 Fed. Reg. 12,406 (1999).

and Wisconsin to help develop our survey instruments and gain a broader perspective on the IDEA implementation in a variety of settings and in locations where IDEA and discipline issues were reported to be of significant concern. Finally, we reviewed the few available studies on IDEA and school discipline issues. We incorporated, where appropriate, the results of those studies into the design of our review and the conclusions contained in this report. We conducted our work between January 2000 and December 2000 in accordance with generally accepted government auditing standards. Appendix I explains our methodology in more detail.

## Results in Brief

About 81 percent of the 272 public middle schools and high schools responding to our survey reported one or more incidents of serious misconduct in school year 1999-2000. About 7 of every 10 incidents were acts of violent behavior, generally student fistfights. In past research, fighting has also been reported as a very common type of misconduct. Principals reported an average of 10 incidents among regular education students and 4 incidents among special education students in the school year. When controlling for different numbers of regular education and special education students represented in the sample schools, these figures equate to 15 incidents of serious misconduct for every 1,000 regular education students and 50 incidents of serious misconduct for every 1,000 special education students represented in our sample schools. Serious misconduct affects students by disrupting the learning process and burdens administrators and teachers by taking up their time in dealing with the perpetrators and the disciplinary processes, according to responding principals. Principals attributed the effects of serious misconduct to incidents involving regular education and special education students alike.

Special education students who are involved in serious misconduct are being disciplined in generally a similar manner to regular education students, based on the information principals reported to us and our review of the limited extant research. Our analysis of data reported by principals indicates that about 60 to 65 percent of students who engage in serious misconduct, whether they are in regular education or special education programs, are given out-of-school suspensions. The length of suspensions is about equal in the two groups, and less than half of suspended students in each group receive educational services during their suspensions. The same proportion of each group of students who engage in serious misconduct—about one in six—is expelled from school and/or placed in an alternative educational setting as a consequence of the misconduct.

IDEA plays a limited role in affecting schools' ability to properly discipline students, according to principals who responded to our survey. While federal law and regulations require all schools to provide students a minimum level of protection, 86 percent of the 272 schools responding to our survey also operate under local special education discipline policies that provide additional protections for students with disabilities. Some principals from the responding schools viewed the locally establishe policies as having a negative effect on their ability to properly discipline special education students. For example, 64 percent of principals reported that they operate under a local policy that prevents them from suspending special education students over 10 cumulative days in a school year. Of these principals, half reported this policy negatively affected their ability to properly discipline special education students. On the other hand, 36 percent of principals reported that they operate under a local policy that requires them to provide educational and/or support services to special education students every day of a suspension, and of these, 87 percent considered this policy to have a positive or no effect. Principals generally rated their schools' special education discipline policies (which in most cases are based on both federal IDEA and local policies) as having a positive or neutral effect on school safety and orderliness. However, about 27 percent of principals reported that a separate discipline policy for special education students is unfair to the regular student population, and 20 percent reported that the discipline procedures for IDEA are burdensome and time-consuming.

## Background

IDEA is the primary federal law addressing the unique educational needs of children with disabilities. Millions of youths with disabilities aged 3 through 21 receive educational services under IDEA each year. In 1975, the Congress enacted the Education for All Handicapped Children Act (EHA), which mandated that a free, appropriate public education be made available for all children with disabilities, ensured due process rights, required individualized education programs, and required placement of children with disabilities in the least restrictive environment. Subsequent amendments to this law added other provisions and programs in support of children with disabilities and their parents and renamed the law as the IDEA in 1990. IDEA was most recently substantially revised in 1997.

IDEA defines childhood disabilities to include a number of different emotional or physical conditions. Specifically, IDEA defines a "child with a disability" as a child with mental retardation; hearing, speech, or language impairments; visual impairments; orthopedic impairments; serious

emotional disturbance; autism; traumatic brain injury; other health impairments; or specific learning disabilities,[7] who, for this reason, needs special education and related services.

By requiring that eligible children with disabilities receive special education services to address their educational needs in the least restrictive environment, IDEA mandates that such students are to be educated, to the maximum extent appropriate, with children who are not disabled. Generally, disabled students are to be removed from the regular education class only when they cannot be educated in that setting with supplementary aids and services. IDEA provides safeguards to ensure that children with disabilities who engage in misconduct are not unfairly deprived of educational services. For example, in developing the child's IEP, the team—which includes at least one of the child's regular education teachers and others providing special education resources—must consider strategies to address any behavior that may impede the child's learning or the learning of others. If a child with a disability engages in misconduct, the school may take disciplinary action; however, the school may also be required to convene the IEP team to conduct a behavioral assessment and develop or review an intervention plan to address the behavior that resulted in the disciplinary action. Also, when the suspension considered is for more than 10 school days at a time, the IEP team must review the relationship between the child's disability and the behavior that resulted in the disciplinary action.

In October 1997, the Department of Education issued proposed regulations implementing the amendments. The proposed regulations contained several provisions that would allow services to continue to special education students who were suspended or expelled. In response to these proposed regulations some districts put in place discipline policies that were consistent with the proposed regulations that limited suspensions of special education students. In commenting on the proposed regulations, some school administrators and others voiced concerns that several procedural and discipline provisions that were designed to protect the

[7]The term "specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, which may affect the ability to listen, think, speak, read, write, spell, or do mathematical calculations. 20 U.S.C. 1401(26). For children aged 3 through 9, it may include a child experiencing developmental delays in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development.

rights of students with disabilities created problems among some school administrators and teachers over how to preserve school safety and order.[8] After receiving nearly 6,000 public comments, Education issued final regulations for the IDEA amendments on March 12, 1999.[9] The final regulations included some changes to the discipline provisions that attempted to respond to some of these concerns.

According to Education, the discipline provisions in the final regulations give school officials reasonable flexibility to deal with minor infractions of school rules, while ensuring that special education students continue to receive educational services. To avoid disruption during the school year, Education did not require a state to comply with the new regulations essentially until the 1999-2000 school year began.[10]

Generally, under IDEA and the 1999 implementing federal regulations, schools are permitted to suspend a special education student for up to 10 school days in a given school year without providing educational services or removing the child to an alternative educational setting.[11] However, if the misconduct is *not* a manifestation of the student's disability, the student may be suspended beyond 10 school days; for such suspensions, the special education student must be provided educational services.[12] The final regulations require a manifestation determination—to assess whether the student's misconduct was caused by his disability—and an IEP team meeting only when a suspension is for more than 10 school days at a time.[13] Otherwise, for short-term suspensions lasting 10 or fewer school days that do not constitute a change in placement, a manifestation determination and

[8]See 64 Fed. Reg. 12,413 (1999).

[9]64 Fed. Reg. 12,406 (1999).

[10]64 Fed. Reg. 12,407 (1999).

[11]20 U.S.C. 1415(k)(1)(A); 34 C.F.R. 300.520(a)(1)(i); 34 C.F.R. 300.121(d).

[12]34 C.F.R. 300.524(a). Many schools or school districts—for example, rural districts where the public school is the only educational setting in the region—have limited options for alternative educational placements where students with disabilities can receive the appropriate educational services. Under these circumstances, a school or district may effectively be prevented from suspending a special education student for more than 10 days in a school year.

[13]34 C.F.R. 300.523(a); 300.520(b)(1).

an IEP meeting are not mandatory.[14] Additionally, the final regulations also permit repeated short-term (not more than 10 school days) suspensions of a disabled student, even if the suspensions cumulatively total more than 10 school days, so long as educational services are provided to the student after the 10th suspension day in a given school year.[15]

The regulations also modify a school's authority to suspend a disabled student for more than 10 school days. Specifically, prior to the 1997 IDEA amendments, a student with a disability could be removed for up to 45 days to an interim alternative educational setting for carrying a firearm; under the revised law and the implementing regulations, this suspension authority has been expanded to include a disabled student who possesses or carries a weapon or possesses, uses, sells, or solicits drugs at school, as well as a disabled student determined by a hearing officer to be so dangerous that the student's behavior "is substantially likely to result in injury to the child or others."[16]

Before special education students may be removed from their current educational placement, however, IDEA provides a number of procedural safeguards. One such safeguard is a student's right to remain in his or her current educational placement during any due process and subsequent judicial proceedings that follow the initial disciplinary removal.[17] This safeguard was designed to limit the exclusion of students with disabilities from their educational setting because of their disability. In the past, such exclusions were alleged to have occurred so that schools, under the guise of minimizing disruptions or protecting other students, would not have to provide expensive services to disabled students. However, the so-called "stay-put" provision, whereby a child's educational placement is to be maintained, has been perceived by some as limiting the authority of school

[14]34 C.F.R. 300.343 (school authorities are to ensure that the IEP team revises the IEP as appropriate); and 300.536 (reevaluation of each child's IEP is conducted if conditions warrant).

[15]34 C.F.R. 520(a)(1); 34 C.F.R. 300.121(d)(2). If repeated removals constitute a pattern because of length, frequency, and total duration, the regulations provide that this is a change in placement. 34 C.F.R. 300.519(b).

[16]20 U.S.C. 1415(k)(1)(A)(ii) and B; 34 C.F.R. 300.520(a)(2) and 300.521.

[17]The right to maintain the current placement does not apply to removals of 10 or fewer school days or 45-day removals for drugs, weapon, or likely injury. 34 C.F.R. 300.526(a).

personnel to remove special education students from school for disciplinary infractions.

Education publicized the issuance of these final regulations extensively through printed materials and via its agency Web site. It also provided training and support materials to states and school districts explaining the changes. Education held a series of public forums around the country for local education agencies, schools, and other interested parties to explain the changes to the final regulations, with a special emphasis on the changes to the discipline provisions. It also held interactive videoconferences for the public and made numerous presentations at state forums. Education funded partnership grants with various groups to provide approved training and information at the local level. Finally, the agency issued memorandums related to IDEA implementation in electronic and printed form to provide guidance and answers to commonly asked questions.

## Reported Extent and Effect of Serious Misconduct in Surveyed Schools

About 81 percent of schools responding to our survey experienced one or more incidents of serious misconduct in the 1999-2000 school year. Most principals reported to us (consistent with prior research findings) that most incidents of serious misconduct were acts of violent behavior, generally fistfights; firearms incidents were rare. Although the number of incidents was greater among regular education students, special education students had a higher rate of serious misconduct (per 1,000 students) than regular education students in reporting schools. The most common effect of serious misconduct was a disruption of student learning. Other effects, as reported by principals, included administrators and teachers having to spend an undue amount of time responding to the misconduct. Principals attributed the effects of serious misconduct to incidents caused by both regular education students and special education students.

### The Majority of Responding Principals Experience Serious Misconduct in Their Schools

On the basis of our analysis of the data reported to us, 81 percent of the 272 responding schools experienced at least one incident of serious misconduct in the 1999-2000 school year (see table 1).

**Table 1: Percentage of Principals Reporting Serious Misconduct During 1999-2000 School Year, by Incident Type and Student Category**

| Type of serious misconduct | Regular education students | Special education students | All students |
|---|---|---|---|
| Violent behavior | 61 | 53 | 66 |
| Drugs | 53 | 32 | 56 |
| Weapons | 34 | 22 | 41 |
| Firearms | 8 | 2 | 10 |
| One or more types | 77 | 64 | 81 |

[a]Because any one incident can involve both regular education and special education students, the columns cannot be added. They are three separate measures.

Schools responding to our survey experienced an average of 10 incidents of serious misconduct among regular education students and 4 incidents among special education students in school year 1999-2000 (see table 2). To make a comparison that controls for the greater number of regular education students in schools (they were 88 percent of all students in the schools we surveyed), we calculated rates of misconduct per 1,000 students. We found that special education students had a higher rate of misconduct.[15] For every 1,000 regular education students represented in our survey, there were 15 incidents of serious misconduct reported; for every 1,000 special education students, there were 50 incidents of serious misconduct reported.

[15]This could partially be explained by behavioral responses that are associated with some disabilities. Federal law recognizes that some disabilities may cause the student to engage in inappropriate behaviors, and if the behavior is a manifestation of the student's disability, a school is not permitted to change a student's placement without the consent of the parent or going through the normal IEP process.

Table 2: Average Number of Incidents of Serious Misconduct per School During School Year 1999-2000, by Incident Type and Student Category

| Type of incident | Regular education students | Special education students |
|---|---|---|
| Violent behavior | 7 | 3 |
| Drugs | 2 | 1 |
| Weapons | 1 | <1 |
| Firearms | 0.1 | <0.1 |
| Total | 10 | 4 |

*Regular education and special education numbers cannot be added together because it would result in double counting.

Violent behavior was the most common type of serious misconduct engaged in by students, according to responding principals. Based on information we received from written survey comments, from discussions we had with school officials during our survey data clarification, and from our site visits, many of the violent incidents were student fistfights. Seven of every 10 incidents among regular education students and 3 of every 4 incidents among special education students were acts of violent behavior.

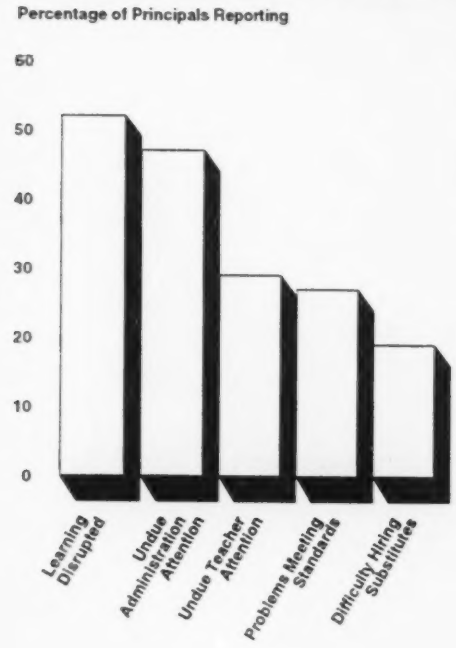
The number of incidents reported by principals varied. While 22 percent of responding principals reported no serious misconduct among regular education students during the 1999-2000 school year, 31 percent reported 10 or more incidents among regular education students. Further, 34 percent reported no serious misconduct among special education students, while 15 percent reported 10 or more incidents among this group. More detailed information on the incidence of serious misconduct appears in tables 6 and 7 in appendix II.

## Serious Misconduct Disrupts Student Learning and Consumes Time of Administrators and Teachers

Serious misconduct, whether committed by regular education or special education students, leads to a variety of negative effects on the school community (see fig. 1). The most common effect—reported by 52 percent of responding principals—is a disruption in student learning. The next most common effect of serious misconduct involves the time and attention teachers and administrators must devote to dealing with student misconduct. Forty-seven percent of responding principals indicated school administrators have to spend an undue amount of time and attention on serious misconduct, and 29 percent of responding principals indicated that teachers have to spend an undue amount of time on discipline procedures

and reviewing district discipline policies. These responses are consistent with the comments we heard in our site visits. Some of the staff we interviewed stated that IDEA-related discipline processes were burdensome when compared with actions taken regarding regular education students and that they took resources away from other activities. Other effects reported in the survey responses were a negative impact on efforts to meet state or district learning standards[19] and difficulty hiring substitute teachers.

**Figure 1: Major Effects of Serious Misconduct on Schools**




[19]One of Education's priorities is to ensure that all states and schools have challenging and clear standards of achievement and accountability for all children and effective strategies for reaching those standards.

## Principals Attribute the Effects of Serious Misconduct to Both Regular Education and Special Education Students

Principals responding to our survey attributed the more common effects of serious misconduct—disruption of student learning; school administrators and teachers spending an undue amount of time and attention on disciplinary matters; negative impact on efforts to meet state or district learning standards; and difficulty hiring substitute teachers—to both regular education and special education students. However, principals generally attributed the effects somewhat more frequently to special education students than to regular education students (especially effects involving the time spent in dealing with serious misconduct). For example, 127 principals indicated that administrators had spent an undue amount of time and effort in dealing with serious misconduct. Among these principals, 80 said this effect resulted from misconduct by both regular education and special education students. An additional 40 principals indicated the effect arose solely from misconduct by special education students, while 7 other principals attributed the effect exclusively to misconduct by regular education students. Likewise, 50 of the 80 principals who said that teachers had spent an undue amount of time on disciplinary matters indicated that this effect was attributable to both regular and special education students. The remaining 30 principals indicated the effect had resulted exclusively from misconduct by special education students. Principals attributed each of the remaining three more common effects to the misconduct of both groups as well (see table 8 in app. II for the complete list of effects arising from serious misconduct and the frequency that principals attributed them to each student group).

## Special Education Students Generally Disciplined Similarly to Regular Education Students

Based on our analysis of reported disciplinary actions and past research, regular education and special education students who engaged in serious misconduct were treated in a similar manner. Regardless of student status, about 60 to 65 percent of students who engaged in serious misconduct during school year 1999-2000 were given out-of-school suspensions. Moreover, most suspended students from either group were given short-term, rather than long-term, suspensions. The portion of suspended special education students who received educational services during their suspensions was not much different from the portion of suspended regular education students who received services. Finally, the percentages of regular education and special education perpetrators who were suspended from school and/or placed in an alternative educational setting were 15 percent and 17 percent, respectively.

We asked principals in our survey to indicate the type and frequency of disciplinary actions they took with students in response to the serious misconduct engaged in by regular education and special education students during the 1999-2000 school year. The information principals provided to us reveals that there is little difference in how they discipline regular education and special education students who engage in serious misconduct. Table 3 compares the frequency with which principals took disciplinary actions with regular education and special education students who engaged in serious misconduct. An out-of-school suspension was the most common disciplinary action taken[20] against students who engaged in serious misconduct, based on our analysis of the data reported to us. Sixty-four percent of regular education students and 58 percent of special education students who engaged in serious misconduct were given out-of-school suspensions during the 1999-2000 school year. Relatively few students were expelled. A large majority of special education students who received an expulsion were provided educational services after the expulsion, consistent with IDEA requirements that schools continue to provide services to students with disabilities who are expelled. About one-half of regular education students received education services after expulsion.

**Table 3: Type and Frequency of Disciplinary Action, by Student Category**

Numbers in percent

| Type of disciplinary action | Regular education students[a] | Special education students[a] |
|---|---|---|
| Removal from school grounds | 6 | 9 |
| In-school suspension | 8 | 10 |
| Out-of-school suspension | 64 | 58 |
| Expulsion | 9 | 6 |
| Placement in alternative educational setting for up to 45 days | 6 | 11 |
| Other disciplinary action/action pending | 8 | 6 |

[20]Our survey information was similar to the results obtained from the Research Triangle Institute study from 1996 conducted on behalf of the Department of Education. The researchers obtained extant information from state and local education agencies on the incidence and consequences of serious misconduct.

Note: This table excludes firearms incidents, which accounted for less than 1 percent of incidents for regular education and special education students.

[a]A single student who was involved in multiple incidents was counted in each incident. Therefore, a multiple offender would be counted more than once.

Our analysis of the suspension data indicates little difference between the two student categories in terms of the length of suspensions received (see table 4). About two-thirds of each category of suspended students were suspended for a short period (1 to 3 days) rather than a long period (4 or more days). Forty-five percent of suspended special education students received educational services during the suspension period. By comparison, 35 percent of suspended regular education students received educational services during their suspension.

**Table 4: Length of Out-of-School Suspension and Whether Services Received, by Student Category**

Numbers in percent

| Suspension length and whether services were received | Regular education students | Special education students |
|---|---|---|
| Out-of-school suspension, 1-3 days, *without* educational services | 45 | 43 |
| Out-of-school suspension, 1-3 days, *with* educational services | 19 | 21 |
| Out-of-school suspension, 4 or more days, *without* educational services | 20 | 12 |
| Out-of-school suspension, 4 or more days, *with* educational services | 16 | 24 |

According to our analysis of the information reported to us, principals referred to the police or juvenile justice system similar portions of regular education and special education students involved in serious misconduct. Specifically, responding principals reported referring an average of 34 percent of special education perpetrators and 28 percent of regular education perpetrators to the police or juvenile justice system. A police referral was in addition to the disciplinary action reported above (in fact, police or uniformed security officers were present continually at many of the 17 schools we visited).

## IDEA Appears to Play a Limited Role in Schools' Ability to Discipline Students

IDEA appears to play a limited role in schools' ability to properly discipline students. Eighty-six percent of the 272 schools responding to our survey also operate under one or more local special education discipline policies that differ from IDEA and the final regulations by providing additional protections for students with disabilities. In some instances, local special education discipline policies prohibit schools from taking actions that would be permissible under IDEA, while in other cases, these policies require schools to take actions not mandated by IDEA. For example, 64 percent of responding principals reported that a local policy prohibits suspension of special education students for more than 10 school days over the course of a school year, even though a suspension totaling more than 10 school days is permissible under IDEA.

Responding principals viewed some of these local policies more favorably than others and generally assessed their overall special education discipline policies, which are an amalgamation of IDEA and local policies, as moderately supporting discipline-related matters. Principals rated most negatively the local policy preventing suspension of a special education student more than 10 cumulative school days in a school year. Nevertheless, responding principals generally regarded their overall special education discipline policy as having a positive or neutral effect on the level of safety and orderliness in their schools.

## Most Responding Schools Operate Under Policies That Provide More Protections Than Required by IDEA

Our analysis of principals' responses showed that 86 percent also operate under one or more special education discipline policies that are different from the federal IDEA discipline policy because the local policies provide additional protections for special education students.[21] These differences can be characterized as two types: (1) disciplinary actions permissible under IDEA but prohibited under local policies and (2) actions not mandated by IDEA but required by local policies.[22] IDEA and local policies

[21]Local differences are allowable and the final regulations do not address the issue. However, Education's position in the final regulations, which allow suspensions beyond 10 cumulative school days while giving local officials discretion about what, if any, services would be needed, reflects its point of view that the regulations should allow school officials reasonable flexibility in dealing with disciplinary issues for special education students.

[22]Our survey instructed principals to indicate whether or not they were allowed or required to take each one of seven actions related to special education discipline. We identified these seven areas as the most likely areas where local policies would differ from federal IDEA. Therefore our analysis should not be considered comprehensive.

most frequently differ on actions related to student suspension. According to information provided by responding principals,

- 64 percent are not allowed to suspend a special education student for more than 10 cumulative school days during a school year,
- 36 percent are required to provide services to the student throughout the suspension period, and
- 24 percent are required to determine whether the student's behavior was a manifestation of his or her disability whenever suspension is being considered.

In contrast, IDEA final regulations allow schools to suspend special education students for more than 10 cumulative school days in a school year and require neither of the latter two policies listed above for all suspensions. Table 5 summarizes differences between IDEA and local policies that were derived from responses to our survey. See appendix II for details of the reported variations between districts' special education discipline policies and IDEA.

**Table 5: Perceived Effect of Local Discipline Policies on Schools' Ability to Properly Discipline Special Education Students**

Numbers in percent

| IDEA and key disciplinary actions | Principals reporting a local requirement that is more restrictive than IDEA[a] | Of principals reporting a local requirement that differs from IDEA, their rating of the effect the requirement has on the school's ability to properly discipline special education students | | |
|---|---|---|---|---|
| | | Very or somewhat negative | No effect | Very or somewhat positive |
| **IDEA allows principals to...** | | | | |
| Suspend a special education student for over 10 cumulative school days during school year | 64 | 50 | 32 | 19 |
| Recommend expulsion for a special education student engaging in serious misconduct[b] | 19 | 45 | 40 | 15 |
| For weapon or drug offenses place a special education student in an alternative educational setting | 10 | 38 | 50 | 12 |
| Suspend a special education student who engages in serious misconduct if the conduct is not a manifestation of the student's disability | 7 | 42 | 25 | 34 |
| **IDEA does not require principals to...** | | | | |
| Provide educational/support services to special education student every day of suspension | 36 | 13 | 43 | 44 |
| Conduct a manifestation determination[c] each time school officials consider suspending special education student | 24 | 28 | 29 | 43 |
| Conduct an IEP meeting every time school officials consider suspending special education student | 16 | 16 | 26 | 59 |

[a]The percentage for "suspend a special education student who engages in serious misconduct" is based on all responding principals. Percentages for the remaining six actions in the table are based on the number of responding principals who reported that they are allowed to suspend a special education student.

[b]Under IDEA, special education students may be expelled only if their misconduct is not a manifestation of their disability. 34 C.F.R. 300.524(a).

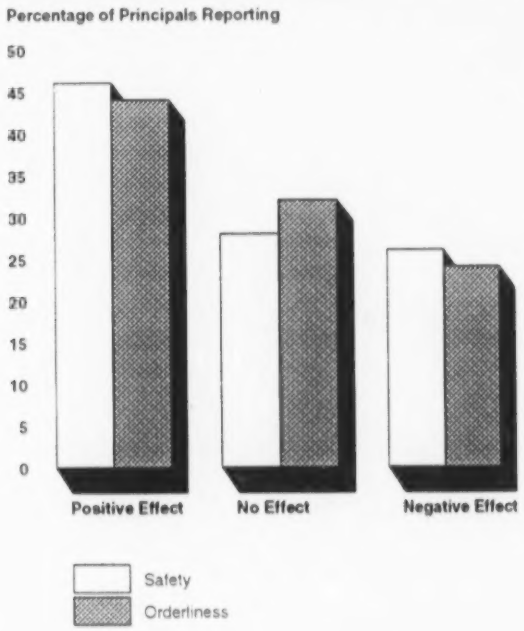
[c]A manifestation determination is a procedure to assess whether a student's misconduct was related to his or her disability.

## Principals' Reactions to Local Policies Are Mixed, but Few Are Negative Toward Overall Discipline Policy

Responding principals generally viewed favorably or neutrally those special education discipline policies not mandated by IDEA but required at the local level. For example, 87 percent of principals who are required to offer services to suspended students and 72 percent who are required to conduct manifestation determinations rated these local policies as having a positive effect on their ability to properly discipline special education students or were neutral toward these policies. In contrast, they generally viewed more negatively those policies where actions are permissible under IDEA but prohibited at the local level. For example, of principals who reported that they are unable to suspend special education students for more than 10 school days over a school year, 50 percent rated this policy as having a negative effect on their ability to properly discipline special education students, while 50 percent rated it as having no effect or a positive effect (see table 5).

Responding principals generally regarded their overall special education discipline policy, which essentially is a combination of IDEA and any local policies, as having a positive or neutral effect on their schools' levels of safety and orderliness (see fig. 2). Specifically, 74 percent of responding principals rated their policies as having a positive or neutral effect on the safety level at their school (although the remaining 26 percent rated the policies as having a negative effect). Likewise, 76 percent rated their local policies as having a positive or neutral effect on their schools' level of orderliness.

**Figure 2: Special Education Discipline Policy Generally Has Positive or Neutral Effect on School Safety and Orderliness**




Among all principals who responded to our survey, the most frequent comment (expressed by 26 percent of all responding principals) in response to our open-ended questions was that the special education discipline policy under which they operate is not fair or equitable to teachers, students, and/or parents.

Other comments included that the IEP meetings and documentation requirements associated with IDEA discipline procedures are burdensome and time-consuming (20 percent); special education discipline policies limit the school's ability to appropriately discipline special education students (19 percent); and concern about the maximum number of school days that special education students can be suspended or placed in an alternative educational setting (13 percent).

## Concluding Observations

The schools responding to our survey experienced a relatively small number of incidents of serious misconduct over the course of a school year. Regular education and special education students alike had engaged in serious misconduct, but the rate among special education students was higher than that of regular education students. This may be due, in part, to behavioral responses associated with some disabilities, which can manifest themselves in inappropriate behaviors. Despite little difference in the actions taken by schools in our survey to discipline regular education and special education students, a sizable minority of principals voiced concern that their schools' discipline policies impeded proper disciplinary action. Some of these comments may have resulted from the additional time and resources that principals reportedly must use to discipline special education students compared with regular education students.

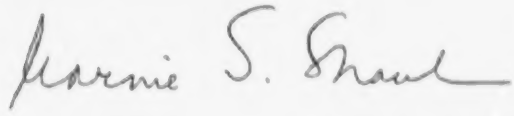
Although the 1997 IDEA amendments and final federal regulations gave schools more flexibility in handling discipline issues, our analysis showed that local school district policies can provide additional protections when compared with provisions in the final federal regulations. Where it exists, the local policy that limits the suspension of special education students to no more than 10 cumulative school days per year is viewed negatively by about half of the principals who operate under it. This 10-school-day suspension limit may reflect school districts' continuation of policies developed from the proposed IDEA federal regulations that were out for public comment through May 1999 but were replaced by the final regulations. Where restrictive local policies are applied, they may alter the balance between protecting the rights of disabled students and ensuring that administrators are able to maintain the safe and orderly environment that the Congress and Education sought to achieve. Because the more common concerns we identified about different treatment for special education students resulted largely from local policy, changes to federal law will not address these concerns.

## Agency Comments

In commenting on the draft report the Department of Education stated that the report provided valuable factual information about special education discipline policy and practices. Education staff also provided technical comments, which we incorporated as appropriate. Education's comments appear in appendix III.

We are sending copies of this report to the Secretary of Education, relevant congressional committees, and others who are interested. Copies will be made available to others on request.

If you or your staffs have any questions concerning this report, please call me at (202) 512-7215. Another GAO contact and staff acknowledgments are listed in appendix IV.



Marnie S. Shaul
Director, Education, Workforce,
and Income Security Issues

# Methodology

This appendix describes the methodologies used in our review of IDEA and student discipline policies. All data collected were self-reported and we did not independently verify their accuracy. We did our work from January 2000 to December 2000 in accordance with generally accepted government auditing standards.

## Interviews With Special Education Experts

To obtain a broad perspective on the issues surrounding IDEA and special education discipline we interviewed researchers, public policy advisers, attorneys, and representatives of organizations that have an interest in special education and discipline policy in public schools in general. We asked for their opinions about the discipline of special education students in public schools and how IDEA affected the ability of school administrators to maintain safe and orderly schools. We gathered anecdotal data about different disciplinary treatment of special education and regular education students, but no group was able to provide us with national data on the disciplinary actions taken with regular education or special education students.

## Review of Existing Data

We sought data available from Department of Education sources on discipline for special education and regular education students. No national data from any of Education's current data collections existed that would allow us to compare disciplinary actions taken with students from the two groups. Education now is collecting by means of a survey new information on discipline and special education issues as required by IDEA. We met with the Education staff and their contractor who are responsible for this survey. We also met with or had telephone conversations with state officials who were responsible for their respective state IDEA-mandated data collection efforts. The first-year data collection effort had not been completed for all states, and the processing and cleaning of the data was still in its early stages in spring 2000. Moreover, these data did not include discipline data on regular education students that we needed to address one of our objectives. Therefore, while we had hoped to use information generated by this new data collection effort, we had to collect our own data.

## Original Data Collection

Because no national comparative discipline information was available, we developed a survey instrument to gather data at the middle school and high school level for school year 1999-2000. We chose to collect data at the

school level because principals were the group most likely to have information on outcomes of serious misconduct by special education and regular education students. We eliminated elementary schools from our sample because our review of Department of Education and Department of Justice reports indicated that elementary schools were much less likely than either middle or high schools to experience or report any type of serious misconduct. We mailed questionnaires to principals from 500 randomly selected public middle schools and high schools. We drew our sample from the most recently available address listing from the 1997 Common Core of Data maintained by the Department of Education. In addition, we surveyed the 70 largest schools drawn from that same list. We pretested our survey instrument with principals in area high schools in Maryland and Virginia.

After we drew our samples, we learned that 50 of the randomly sampled cases were not public middle or high schools, so we excluded them from our sample and drew replacements. After receiving responses to our survey, we had to exclude an additional 35 cases from the random sample of 500 because these schools had closed, had moved, had been consolidated with other schools, or otherwise were no longer appropriate for inclusion in our sample. Despite several follow-ups, only 60 percent of the principals from the random survey responded. This response rate is too low to permit us to produce estimates that are nationally representative.

The 70 largest schools were predominantly located in California, Florida, New York, and Texas. Our response rate for the 70 largest schools was 27 percent. Most of the schools failed to respond to the survey despite repeated mailings and numerous telephone contacts. We also met with officials from New York City schools, which accounted for more than 25 percent of the large-school sample, and even though they reassured us that they would cooperate, no additional schools responded. The response rate from the large schools was too low to permit us to conduct a comparative analysis of large and small schools.

We augmented data from our mail surveys with information from site visits to three states: Louisiana, New York, and Wisconsin. On these site visits we met with state officials, nine district superintendents, special education directors, assistant principals, school security staff, and principals from 45 schools. We selected these states in order to visit with school staff from a variety of settings (urban/rural, large city/suburban), where IDEA and discipline issues were reported to be of significant concern. We discussed with these school officials their experiences with state and local district

policy concerning school discipline for special education and regular education students and the impact that IDEA law and regulations have had on their ability to maintain safe and orderly schools.

# Information on Incidence of Serious Misconduct in Sample Schools

**Table 6: Percentage of Principals Reporting Incidents of Serious Misconduct During School Year 1999-2000, by Type of Incident and Student Category**

| | Regular education students | | | | Special education students | | | |
|---|---|---|---|---|---|---|---|---|
| Type of incident | 0 incidents | 1 to 3 incidents | 4 to 9 incidents | 10 or more incidents | 0 incidents | 1 to 3 incidents | 4 to 9 incidents | 10 or more incidents |
| Violent behavior | 39 | 21 | 15 | 21 | 47 | 27 | 15 | 11 |
| Drugs | 48 | 36 | 13 | 4 | 68 | 28 | 2 | 1 |
| Weapons | 66 | 29 | 5 | 0 | 78 | 21 | 1 | 0 |
| Firearms | 92 | 8 | 0 | 0 | 98 | 2 | 0 | 0 |
| One or more types | 22 | 26 | 22 | 31 | 34 | 33 | 19 | 15 |

**Table 7: Number of Incidents of Serious Misconduct per 1,000 Students During School Year 1999-2000, by Type of Incident and Student Category**

| Type of incident | Regular education students | Special education students |
|---|---|---|
| Violent behavior | 10.9 | 37.7 |
| Drugs | 3.1 | 7.7 |
| Weapons | 1.1 | 3.8 |
| Firearms | 0.2 | 0.3 |
| Total | 15.4 | 49.5 |

**Table 8: Frequency of Specific Effects From Serious Misconduct, by Student Category**

| Type of effect from serious misconduct | Percentage of schools that experienced this effect | Among schools experiencing the effect, number reporting effect was result of serious misconduct by . . . Both regular education and special education students | Regular education students only | Special education students only |
|---|---|---|---|---|
| Student learning disrupted | 52 | 118 | 6 | 16 |
| Undue attention/time spent by administrators | 47 | 80 | 7 | 40 |
| Undue time spent by teachers on discipline procedures and discipline policies | 29 | 50 | 0 | 30 |
| Negative impact on efforts to meet state and/or district learning standards | 27 | 56 | 2 | 14 |
| Developed partnership with local law enforcement officials to deal with violent incidents[a] | 27 | 63 | 6 | 5 |
| Difficulty hiring substitute teachers | 19 | 35 | 4 | 13 |
| Bodily or mental harm to special education teachers | 9 | 6 | 0 | 19 |
| Increased student absenteeism (among nonperpetrators) | 9 | 13 | 8 | 3 |
| Loss of public or community confidence | 8 | 14 | 4 | 3 |
| Regular education teachers spent time on legal proceedings | 8 | 11 | 4 | 7 |
| Difficulty hiring new teachers | 8 | 8 | 0 | 13 |
| Absenteeism among regular education teachers | 7 | 11 | 5 | 3 |
| Absenteeism among special education teachers | 8 | 2 | 0 | 20 |
| Bodily or mental harm to regular education teachers | 8 | 7 | 8 | 6 |
| Special education teachers quit/retired | 7 | 0 | 1 | 17 |
| Difficulty hiring other staff | 4 | 3 | 5 | 4 |
| Regular education teachers quit/retired | 4 | 6 | 1 | 3 |
| Decision to not schedule or to cancel extracurricular activity or event | 4 | 4 | 5 | 1 |
| Difficulty hiring school administrators | 2 | 3 | 1 | 1 |
| Increased transfers to other schools (among nonperpetrators) | 3 | 3 | 1 | 3 |
| Make-up days needed for days that school closed for safety/investigation reasons | 1 | 0 | 2 | 1 |
| School administrator or teacher fired | <1 | | | 1 |

[a]Since it is not a negative consequence, we do not present this action as an effect of serious misconduct in the body of the report.

# Comments From the Department of Education

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES
THE ASSISTANT SECRETARY

DEC 14 2000

Ms. Marnie S. Shaul
Director
Education, Workforce, and
Income Security Issues
United States General Accounting Office
Washington, DC 20548

Dear Ms. Shaul:

We have reviewed Draft Report GAO--01-210 "STUDENT DISCIPLINE, The Individuals with Disabilities Education Act", and have discussed minor technical issues with your staff. The report provides valuable factual information about special education discipline policy and practices. Much prior discussion of special education discipline issues has involved anecdotal or episodic accounts. This report summarizes information obtained from a survey of 272 middle and high schools and indicates that a substantial majority of principals believe that present special education discipline policy has either a positive or neutral effect on school safety and orderliness.

Thank you for the opportunity to review the Draft Report and for your timely contribution to a subject area that has been of substantial concern to educators and policymakers.

Sincerely yours,

Judith E. Heumann

Judith E. Heumann

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# GAO Contact and Staff Acknowledgments

## GAO Contact

Eleanor Johnson, (202) 512-7209

## Staff Acknowledgments

In addition to those named above, the following persons made important contributions to the report: George Erhart, Brett Fallavollita, Elspeth Grindstaff, and Behn Miller.

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